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Appl. No. 09/005,035  
Reply to Office Action of September 8, 2003

#### REMARKS

Claims 1-8 and 10-12 remain in this application. Claim 9 was previously canceled. Claims 1, 2, 4, 5, 7 and 10 have been amended.

In the Office Action dated September 8, 2003, the Examiner rejected, in particular, independent claims 1, 2 and 10 of the present application under 35 U.S.C. §103(a) as being unpatentable over the Gersheneld reference (U.S. Patent No. 5,914,701). Without reiterating all of the details of such rejection, it should be noted that the Examiner agreed that the Gersheneld reference does not disclose a system which is explicitly for an audio listening apparatus. However, the Examiner then reasoned that since Gersheneld disclosed that the system relates to the use of small currents externally induced in people by electrostatic field coupling and the systems which can be used for wireless communication among proximate devices, it would have been obvious to use the Gersheneld system for audio listening purposes.

The Examiner also agreed that the Gersheneld reference does not disclose a second electrode which is attached to an audible sound generating means and configured to fit around a user's ear to direct the audible sound into the user's ear. Thereafter, however, the Examiner reasoned that the Boling reference (U.S. Patent No. 6,285,867) discloses an audible sound generating means which is configured to fit around a user's ear and further discloses using an audible sound generating means as claimed to use a personal audio device as a telephone. In sum, it was the Examiner's opinion that would have been obvious to combine the telephone of Boling with the system of Gersheneld for using a small current externally induced in people by electrostatic field coupling in a telephone.

Applicants respectfully submit that the claims of the present application, as amended, are both novel and non-obvious over the art of record for the following reasons.

First of all, Applicants respectfully submit that there is absolutely no teaching or suggestion in the cited reference that the system of Gersheneld can be used for audio listening purposes (and apparatuses). While the reference relates to systems (such as pagers, telephones, computer terminals, and set forth) that can be used for wireless communication among proximate devices, does not mean that such technology can be specifically employed in an audio listening apparatus wherein a single human body serves to transfer an audio modulated signal between a transmission apparatus and a receiver apparatus. Moreover, as per the present amendment, the

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Gersheneld reference does not teach or suggest such a transmission path which is not capacitively coupled to ground. Indeed, all of the data transmission disclosed in the Gersheneld reference involves a transmission path which includes both the body of a user and a ground plane.

With respect to the Boling reference, Applicants respectfully submit that the Examiner has misconstrued the fundamental operation with the associated device. While the disclosed apparatus in such reference includes an audio information access device, any subsequent transmission therefrom is sent through the air. There is not, quite simply, any transmission from the disclosed transmitter device to the associated receiver device (earphones) wherein the audio transmission is sent through the body of the user of the device. Accordingly, Applicants respectfully request that a timely Notice of Allowance be issued in this case.

It is further submitted that no fees are due in connection with this Amendment. However, if any fees are due in connection with this application as a whole, the Examiner is authorized to deduct said fees from Deposit Account No.: 02-1818. If such a deduction is made, please indicate the attorney docket number (0112857-265) on the account statement.

Respectfully submitted,

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